IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICGTION
INCOME TAX REFERENCE NO. 174 of 1995

The Commissioner of Income Tax ... Applicant.

vs.

M/s. Cynamid India Ltd. ..... Respondent

Mr. Parag Vyas for Applicant.
Mr. Santosh Padamsholi for Respondent

CORAM: V**. C. DAGA AND A. S. AGUIAR JJ.**

Date: 10th August, 2005.

P. C. :

1. By this reference arising out of I.T.A. No. 1244/Bom/1986, for Assessment Year 1981-82, under section 256(1) of the Income-tax Act the Tribunal has referred the following question of law for opinion at the instance of the Revenue:

> (1) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that husk is an agricultural product and consequently the assessee is entitled to deduction of Rs.4,98,015 under s. 35C of the Income Tax Act , 1961.
>
> (2) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in directing the sassessing officer to allow full deduction of initial contribution to superannuation fund as revenue

expenditure?

1. Both counsel appearing for the rival parties agree that the above questions have been covered by decision of the Apex Court. The first question is covered by the judgment in the case of **Commissioner of Income Tax vs. Cynamid India Ltd.,** reported in [1999] 237 ITR 585, wherein the Apex Court ruled that rice husk is a product of agriculture and consequently entitled to deduction under section 35C of the Income Tax Act, 1961.

2. Similarly the second question is covered by the judgment in the case of **Commissioner of Income Tax vs. Sirpur Paper Mills** , reported in [1999] 237 ITR 41 (SC) where the Apex Court held that deduction s of initial contribution to superannuation fund is allowable as revenue expenditure. In this view of the matter both the questions referred to us is answered in the affirmative i.e. in favour of the assessee and against the Revenue. Reference accordingly disposed of with no order as to costs.

(V. C. DAGA J.)

(A. S. AGUIAR J.)

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